

**REMARKS**

Claims 1-10 and 13-17 are pending in the application.

Claims 1-10 and 13-17 stand rejection.

Claims 1, 9 and 13-17 have been amended herein to clarify the claimed subject matter.

The feature of a window shaping function having a predetermined width is supported by, for example, Figs. 2 and 4 of the specification. Fig. 2 shows an example of a predetermined width  $T_s$  and Fig. 4 shows an example of the window shaping function applied over  $1/T_s$ . No new matter is entered.

In addition claim 1 has been amended to include the features of claim 8 and claim 8 has been cancelled without prejudice.

**Rejection under 35 USC 101**

According to the Office Action, claims 1-7 are rejected under 35 USC 101 as directed to non-statutory subject matter. The Office Action indicates dependent claim 8 includes statutory subject matter. To advance prosecution and without conceding any arguments, claim 1 has been amended to include the features of claim 8. It is, therefore, respectfully submitted the rejection of claims 1-7 is traversed.

**Rejection under 35 USC 102(e)**

According to the Office Action, claims 1, 5 and 8-10 are rejected under 35 USC 102(e) as being anticipated by US Patent 7,131,007 (hereinafter "Johnston").

Applicants' claim 1 includes the features of: "applying a window shaping function having a predetermined width to said first sequence of values so as to form a smoothly varying signal, wherein the integral over the predetermined width of the window shaping function is zero."

The Office Action points to col. 2, lines 11-15 and col. 4, line 56 to col. 5, line 24 of

Johnston as showing the claimed features. However, the windowing function in Johnston only yields positive values. Because the window shaping function only yields positive values, the integral cannot equal zero.

For example, the window function used for generating the signal 102 in Johnston is the equation (1) shown in Johnston col. 4, line 55. The sign of this equation is always positive, therefore, the integration cannot be zero. Johnston explains using this equation in the section cited in the Office Action. For example, the signal is transformed into a frequency domain using FFT and then phase modulated. Johnston uses overlapping windows every half window. It is clear that Johnston shows all positive values resulting from the window shaping function and the integral cannot equal zero. There is no disclosure in Johnston of the integral over the window shaping function having a predetermined width being zero.

Furthermore, Johnston shows in Fig. 3(a), and as described in col. 5, starting at line 42, the message bits represented by the phase window function 130. Fig. 3(a) shows all positive values, thus the integration over the window function, as shown in Fig. 3(a), cannot equal zero.

According Section 2131 of the MPEP, to anticipate a claim, the reference must teach each and every element of that claim. As discussed above, Johnston is deficient in teaching each and every element of Applicant's claim 1. It is, therefore, respectfully submitted that independent claim 1 is not anticipated by Johnston. Withdrawal of the rejection is respectfully requested, as it cannot be sustained legally.

Independent claim 9 is directed to an apparatus and contains similar limitations as recited in claim 1 and as discussed above. To avoid repetition, claim 9 will not be discussed in detail with the understanding that it is patentable at least for the same reasons as claim 1. Applicants, therefore, respectfully request withdrawal of the rejection and allowance of claim 9.

Claims 5 and 10 each depend from independent claims, which have been shown to be allowable over the prior art reference. Accordingly, claims 5 and 10 are also allowable by virtue of their dependency, as well as the additional subject matter recited therein. Applicants submit that for at least the above reasons the rejection of claims 5 and 10 has been overcome and respectfully request withdrawal of the rejection and allowance of the claims.

Rejections under 35 USC 103(a)

According to the Office Action, claims 2-4 are rejected under 35 USC 103(a) as being obvious over Johnston in view of US Patent 5,401,897 (hereinafter “Depalle”).

Further according to the Office Action, claim 6 is rejected under 35 USC 103(a) as being obvious over Johnston in view of US Patent 6,209,094 (hereinafter “Levine”).

Further according to the Office Action, claim 7 is rejected under 35 USC 103(a) as being obvious over Johnston in view of Harris.

With respect to claims 2-4, 6 and 7, it is respectfully submitted that a prima facie case of obviousness has not been established. The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. 103 is set forth in MPEP § 706.02(j), and requires, in part, that the prior art reference (or references when combined) must teach or suggest all the claim limitations.

In the instant application, it is respectfully submitted the combination of references fails to teach at least the above discussed features of independent claim 1 from which claims 2-4, 6 and 7 depend.

According to the Office Action, Depalle, Levine and Harris were only cited to allegedly show features in Applicants’ dependent claims, but not relied upon or related to the above features for which Johnston is relied upon. Therefore, the additional references fail to cure

deficiencies in Johnston with respect to independent claims 1 and 9, as discussed hereinabove. Since Depalle, Levine and Harris, whether alone or in combination, fail to cure the deficiencies in Johnston with respect to the features in the independent claims, Applicants' dependent claims 2-4, 6 and 7 are also distinguishable over the prior art of record at least for those reasons, as well as the additional features recited therein. Applicants submit that the reason for the rejection of claims 2-4, 6 and 7 has been overcome and respectfully request withdrawal of the rejection and allowance of the claim.

Further according to the Office Action, claims 13-17 are rejected under 35 USC 103(a) as being obvious over Levine in view of Harris.

The combination of Levine and Harris fail to teach or suggest the features of independent claim 13 including: extracting an estimate of a watermark from the received signal by assuming that the watermark comprises a sequence of values to which a window shaping function having a predetermined width has been applied, the integral over said predetermined width of the window shaping function being zero (emphasis added). A similar feature is recited in claim 16.

As in Johnston, the combination of Levine and Harris fails to teach or suggest at least the integral over said predetermined width of the window shaping function being zero.

Furthermore, claims 13 and 16 recite: processing (process) the estimate of the watermark with a referenced version of the watermark so as to determine whether the received signal is watermarked.

The Office Action points to Fig. 13, col. 20, lines 15-48 and col. 21, lines 37-43 of Levine. However, Levine does not disclose nor suggest processing the estimate of the watermark with a referenced version. In col. 20, lines 40-45, Levine describes: "As used herein, self-correlation of the segments refers to correlation of the segments with themselves."

Levine basically estimates the basis function and correlates the estimated basis function back to the watermark signal to find the watermark signal. Thus, the prior art compares one estimate with another estimate.

In contrast Applicants claim processing the estimate of the watermark with a referenced version of the watermark so as to determine whether the received signal is watermarked.

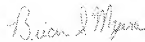
For at least the foregoing reasons it is respectfully submitted the combination of Levine and Harris fail to teach or suggest all the claimed features found in independent claims 13 and 16. Thus, the rejection should be withdrawn.

The dependent claims benefit from the allowability of their respective independent claim and are likewise patentable. Hence, the rejection of claims 11-17 must be withdrawn.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are solicited. Should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues. In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,



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